

JPW



patdocs/ptomisc

LU 6084 (US)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re application of)
)
Shahram Mihan et al.)
)
Serial No. **10/538,540** ✓)
)
Filed **June 10, 2005**)
)
For **COPOLYMERS OF ETHYLENE WITH**)
ALPHA-OLEFINS)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST TO CORRECT OFFICIAL FILING RECEIPT

The Filing Receipt mailed August 16, 2005 in connection with the above application contains the following error:

Filing or 371 (c) Date should be **June 10, 2005**.

Furthermore, the Notice of Acceptance of Application Under 35 USC 371 and 37 CFR 1.495 mistakenly states the Date of Completion of all 35 USC 371 Requirements as June 11, 2005, but should be **June 10, 2005**.

This correction of filing date is evidenced by the attached copy of a Decision on Petition Under 37 CFR 1.10(d), which granted the change in filing date from June 11 to June 10, 2005.

Applicant respectfully requests that this error be corrected and that a new official filing receipt and Acceptance Letter reflecting the correct filing date be issued.

Respectfully submitted,

SHAHRAM MIHAN ET AL.

By *William R. Reid*
William R. Reid
Reg. No. 47,894
Attorney for Applicants

Basell USA Inc
912 Appleton Road
Elkton, Maryland 21921

August 23, 2005

Attorney's Telephone No.: 410-996-1783
Attorney's Facsimile No.: 410-996-1560

02 AUG 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BASELL USA INC.
INTELLECTUAL PROPERTY
912 APPLETON ROAD
ELKTON, MD 21921

RECEIVED BASELL

AUG 4 2005

In re Application of
MIHAN, Shahram et al.
Application No.: 10/538,540
PCT No.: PCT/EP03/14437
Int. Filing Date: 18 December 2003
Priority Date: 20 December 2002
Docket No. LU 6084 (US)
For: COPOLYMERS OF ETHYLENE WITH
 α -OLEFINS

PLAW

DECISION

ON PETITION UNDER

37 CFR 1.10(d)

This decision is in response to applicants' "Petition to Correct Filing Date Under 37 CFR 1.10(d)," filed 25 July 2005.

BACKGROUND

On 18 December 2003, applicant filed international application PCT/EP03/14437, which claimed a priority date of 20 December 2002. A copy of the international application was transmitted to the Office by the International Bureau on 08 July 2004. Accordingly, the thirty month period for paying the basic national fee expired at midnight on 20 June 2005.

Applicant filed a transmittal letter for entry into the national stage in the United States, accompanied by, *inter alia*, the basic national fee. It was accorded a filing date of 11 June 2005.

On 25 July 2005, applicant submitted the instant petition, accompanied by a copy of the transmittal letter, Express Mail label and Express Mail tracking information from USPS.

DISCUSSION

In the instant petition, applicant requests that the receipt date be amended to 10 June 2005. The Express Mail mailing label lists the "date in" as 11 June 2005.

Applicant argues that the application was submitted to the USPS on 10 June 2005. 37 CFR § 1.10(d) allows an applicant to petition to correct an incorrectly entered "Date In" of an Express Mail receipt and states that:

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS

was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
- (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Applicant has satisfied items (1), (2) and (3). The petition was filed promptly and the papers in the file reflect the mailing label number. Applicant has furnished a print out from USPS track and confirm database indicating the package was accepted by USPS on 10 June 2005 and submitted a letter on USPS stationery from a Supervisor at the Elkton Post Office.

CONCLUSION

For the reasons listed above, applicant's petition under 37 CFR 1.10(d) to correct the date of receipt of the papers for entry into the national stage in the United States to 10 June 2005 is

GRANTED.

This application is being forwarded to the National Stage Processing Division of the Office of the PCT Operations for continued processing. The application has a 35 U.S.C. §371(c)(1), (c)(2) and (c)(4) date of 10 June 2005.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

Telephone: 571-272-3292
Facsimile: 571-273-0459